IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

Crl.MC.No. 457 of 2007()

LP.6/2005 of ADDL.CHIEF JUDICIAL MAGISTRATE, ERNAKULAM

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PETITIONER:

K.S. SALIM,
KAKKTTIL HOUSE,
MOOLEPPADAM,
KALAMASSERY,
ERNAKULAM DISTRICT.

BY ADV. SRI.ANIL K.MOHAMMED

RESPONDENTS:

STATE, REP. BY THE
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI.S.U.NAZAR.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 21/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 457 of 2007

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Dated this the 21st day of February, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. The case was taken on file in 2005. The petitioner allegedly did not receive the summons. Assuming that the summons has been served on the petitioner, the case has now been transferred to the list of long pending cases. The petitioner finds himself in the unenviable predicament of a non-bailable warrant of arrest chasing him. The petitioner submits that he is willing to surrender, but apprehends that when he surrenders his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances he prays that directions may be issued under Section 482 Cr.P.C. to the learned Magistrate to release him on bail on the date of his surrender.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate

would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court.

3. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself, unless there are compelling and exceptional reasons.

(R. BASANT)
Judge

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